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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, IUS PRIMI VIRI International Association, Union of Arab Jurists, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Growing Racism and Xenophobia in Europe*

In the past decade Europe has undergone economic and political crises and has experienced significant increases in migrants, especially refugees and asylum seekers. This is an important phenomenon to realise as blame for these crises and ensuing situations unjustly fall on minority groups. In addition, violent extremists who are on the rise have committed acts of violence and have sought to unrest societies and communities in Europe. However, the concerning responses to this phenomenon and towards hostile acts have been regrettably directed in the wrong directions by both civilians and politicians alike that has resulted in unfortunate circumstances and negative stereotypes.

In addition to race-based violent attacks, hate speech and verbal slurs discrimination is still a serious issue in economic, social and political fields such as housing, employment, health services, education, political participation and criminal justice among others. Moreover, the media is continuously being exploited to spread xenophobia, stereotypes, and untrue claims.

Racism and Racial Discrimination in Europe

The European Council on Tolerance and Reconciliation (ECTR) among other European commissions are finding that intolerance in Europe is growing. This phenomenon is of major concern especially considering its prevalence among political leaders of which several have aligned themselves with far-right and extreme-right political ideologies and parties1; they have also reached out to the youth demographic for their support and have done so with success23. Those who feel threatened, attempt to push a discriminatory agenda, or direct blame towards a phenomenon, often scapegoat minorities and in so-doing increase racism and racial discrimination. 4

In a comment by the Council of Europe (CoE) on human rights, historical roots, namely colonialism and the Trans-Atlantic Slave Trade, were acknowledged as persisting factors towards modern prejudices and inequalities in Europe. The comment also noted that racism and racial discrimination against blacks was experienced at all levels of society, including the governmental level, in numerous countries adversely affecting social cohesion. The CoE is also concerned that the lack of diversity as a result of racial discrimination and Afrophobia serves as a deterrent to interested persons in such fields.

Islamophobia has been on the rise for over a decade and contemporary manifestations have taken place. In several European countries the majority of discrimination, attacks, hate crimes and speech, that are driven by Islamophobia are increasingly against women. A study showed that when job-searching Muslim women are more likely to be asked questions related to their lifestyle, family, and goals than non-Muslim women; additionally, it also found that clothing, especially the headscarf, and name are barriers they carry when finding and keeping a job. The study noted that the spread of Islamophobia takes place in societal life and the media; it acknowledged that journalism and politicians play a major role in the spread of Islamophobia5. Worse still, Islamophobia is not only becoming mainstream but is also being used as a political tool. The migration crisis together with attacks by Islamic extremists has led politicians to scapegoat Muslims, Arabs, and refugees as elements of fear in an attempt to win votes as they run for power; Muslims have been negatively stereotyped as 'terrorists', 'violent', 'jihadists', 'uncivilized', 'rapists' etc. and in general portrayed as a

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1http://www.nigdywiecej.org//docstation/com_docstation/20/r._pankowski_how_best_to_respond_to_the_rise_of_populist_extremism._ectr_2018.pdf

2 For instance, the political group Kukiz in Poland who are ant-Muslim and anti-immigration.

3 Far-right extremists and white supremacists are growing in numbers and gathering to "defend Western civilization" as evidenced by the Warsaw march that was held on November 11, 2017.3 Additionally, countries such as Poland and Hungary right-wing governments white-wash their histories and promote tough anti-migrant laws whereas countries such as Germany and Austria elites support and help far-right wing governments increasing their power and influence.

4 https://www.opensocietyfoundations.org/explainers/islamophobia-europe

5 http://enar-eu.org/IMG/pdf/20095_forgottenwomenpublication_v5_1_.pdf

'threat' to European Christian values. 6 The same actors who spread fear against a particular group have the obligation, power, and tools to protect against said groups and promote human rights and diversity.

According to incident reports by European anti-Semitic groups and organisations, attacks against Jewish schools and kosher establishments persist in several countries in Europe7 and further reported that anti-Semitic banners were flown at football matches in Russia that in some cases led to violence8. The incident reports also claim that anti-Jewish propaganda is being taught in schools and also persists in the media. In addition to the need for more data collection some have suggested there is a need for legal definitions.

Non-Discrimination Laws in Europe

Europe has in place existing laws and provisions that guarantees a society free from racial discrimination. Non-discrimination can be found in several European legal documents; as pointed out in the Handbook on European non-discrimination law (2018) - "The aim of non-discrimination law is to allow all individuals an equal and fair prospect to access opportunities available in a society".

Such provisions ensuring non-discrimination practices are present in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) under Article 14, 'Prohibition of Discrimination': "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as… race, colour, language, religion… national or social origin, association with a national minority…". Furthermore, Article 1 of the ECHR ensures human rights for all: "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention."

It should be noted that the Court of Justice of the European Union (CJEU) refers to ECHR and with the Treaty on European Union (TEU) they look to the ECHR for guidance and inspiration towards protecting human rights under European Union (EU) law. All member states of the EU have joined the ECHR and CJEU effectively adhering to the principles of non-discrimination. The CoE also has several treaties that revere this principle.

National Policies

As it is not possible to take the EU before the European Court for Human Rights (ECtHR) and justice can only be done by issuing a complaint "before the national courts" it is evident that national courts themselves must be fully capable and equipped to handle complaints and cases of all forms of racial discrimination. Moreover, access to national courts and awareness of such procedures must be made readily available in all member states, and furthermore, authorities must be trained and in suitable position to address incidents of racism and racial discrimination.

In addition, Racial Equality Directive (2004/43/EC) and Employment Equality Directive (2000/78/EC) prohibits discrimination against racial or ethnic origin and in employment on the ground of religion or belief respectively. The Victims' Rights Directive (2012/29/EU) establishes minimum standards on the rights, support and protection of victims of crime. 9

However, according to ENAR's recent Shadow Report there is no specific EU or national policy that combats discrimination against black Europeans and people of African descent, and furthermore, resources to combat such discrimination against this group is on the decline. This is of serious concern as 'discriminatory policing' and 'black profiling' continues to be of great concern as it adversely affects social cohesion for people of African descent and

6http://www.nigdywiecej.org//docstation/com_docstation/20/a._piela_a._lukjanowicz_islamophobia_in_poland._national_report_2017._europea.pdf

7 http://www.ep-wgas.eu/wp-content/uploads/2017/02/Incidents-Report-2016-FINAL.pdf

8 http://farenet.org/news/erasmus-term-slug/monitoring-report-details-racism-russian-football/

9 file:///C:/Users/GICJ/Downloads/fra-2017-antisemitism-update-2006-2016_en%20(2).pdf

Europe at large10. In light of this disparity and lack of national policy it cannot be stressed enough the urgent and necessary need for member states to fully adopt and implement the Durban Declaration and Plan of Action (DDPA) as it "calls for comprehensive national action plans to eradicate racism, racial discrimination, xenophobia, and related intolerance. It calls for the reinforcement of national institutions and it formulates concrete recommendations in the areas of national legislation and the administration of justice".

More Attention

The Mediterranean region should be considered with great concern over racism and racial discrimination. It serves as a crucial route for migrants or refugees and asylum seekers heading to Europe. However, despite several principles and instruments in place such as the CERD and DDPA discrimination persists within home and destination countries. More attention needs to be paid on the plight of Roma people and communities especially with regard to housing, health, and education.

More attention also needs to be paid by UN bodies in terms of support, advocacy, and funding towards ending all forms of racial discrimination and implementing the DDPA, which combats racism and promotes equal rights for all. Different strategies and planning must be put into effect - most member states and to some degree the UN itself lack the political will to implement or advocate the DDPA. More focus on access to justice is warranted and will require technical and financial assistance towards training.

Conclusion

There is a refusal to address racism and a serious lack of quality data. For instance, FRA Europe, remarked anti-Semitic incidents are only recorded by few EU member states - there is inadequate and under-recording of hate crimes. According to FRA Europe this undercuts the "extent, nature and characteristics" of the crime and further hinders policy-makers and relevant stakeholders to take the necessary measures and courses of action towards combatting racism and racial discrimination. Additionally, unreported incidents mean that victims will not get due justice and perpetrators will not be held to account.

Politicians, journalists, and opinion-makers have a crucial part to play in not only exposing racial hatred and discrimination but also in promoting diversity and respect for human rights against racism as emphasised under several existing conventions and resolutions.

Recommendations for states:

- *Put in place* measures to increase and enhance data collection;
- *Adopt and fully implement* the DDPA;
- *Commit* Protocol No. 12 of ECHR;
- *Use* media to combat racism and promote human rights education;
- *Increase* awareness and access to justice with guaranteed safety to appropriate judiciary systems.

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*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussells Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), NGOs without consultative status, also share the views expressed in this statement.

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10 http://www.enar-eu.org/IMG/pdf/afrophobia_strategydoc_final.pdf